

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**LUPERCAL LLC,**

Plaintiff

v.

**CITIBANK, N.A.,**

Defendant

**Case No. 6:19-cv-00201**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Lupercal LLC (“Lupercal” or “Plaintiff”) files this Complaint for patent infringement against Defendant Citibank, N.A. (“Citibank” or “Defendant”), and alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under 35 U.S.C. § 1 *et seq.*

**PARTIES**

2. Lupercal is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business in Dallas, Texas.

3. Upon information and belief, Defendant, Citibank, is a New York national chartered bank having a principal place of business in this judicial district at 7800 N. Mopac, Suite 100, Austin, TX 78759.

**JURISDICTION AND VENUE**

4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Defendant is subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because Defendants have committed acts of infringement and have regular and established places of business in this judicial district.

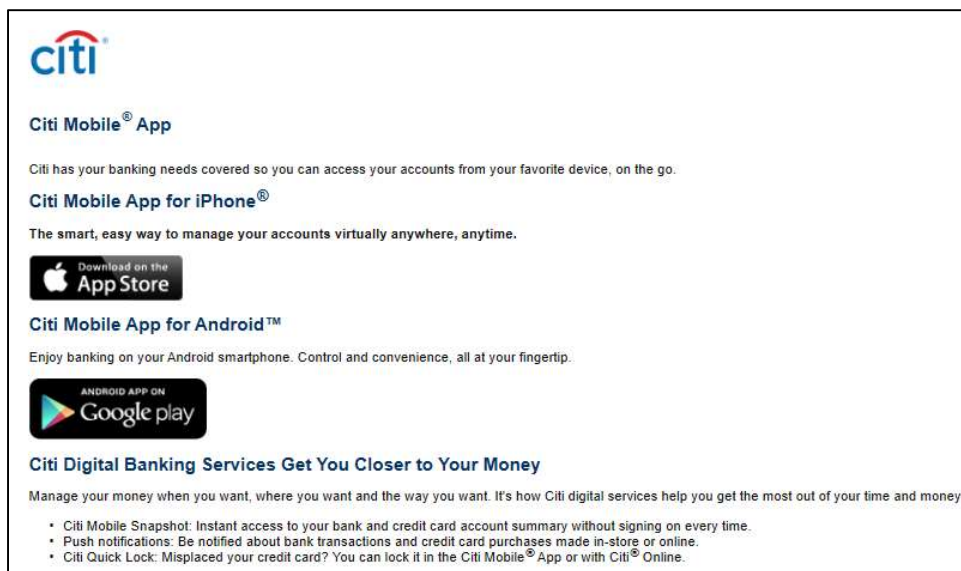
**COUNT I**  
**(Infringement of U.S. Patent No. 9,386,094)**

7. Lupercal incorporates paragraphs 1 through 6 as though fully set forth herein.

8. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,386,094 (the “’094 Patent”), entitled SYSTEM AND METHOD FOR MEDIA SUBMISSION, which issued on July 5, 2016. A copy of the ’094 Patent is attached as Exhibit A.

9. The ’094 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. Defendant provides the Citi Mobile App for use with Apple iOS devices and Android devices, which is available for download from Apple’s iTunes App Store and Google Play Apps:




**citi**

**Citi Mobile® App**

Citi has your banking needs covered so you can access your accounts from your favorite device, on the go.


**Citi Mobile App for iPhone®**

The smart, easy way to manage your accounts virtually anywhere, anytime.

 Download on the App Store

**Citi Mobile App for Android™**

Enjoy banking on your Android smartphone. Control and convenience, all at your fingertip.

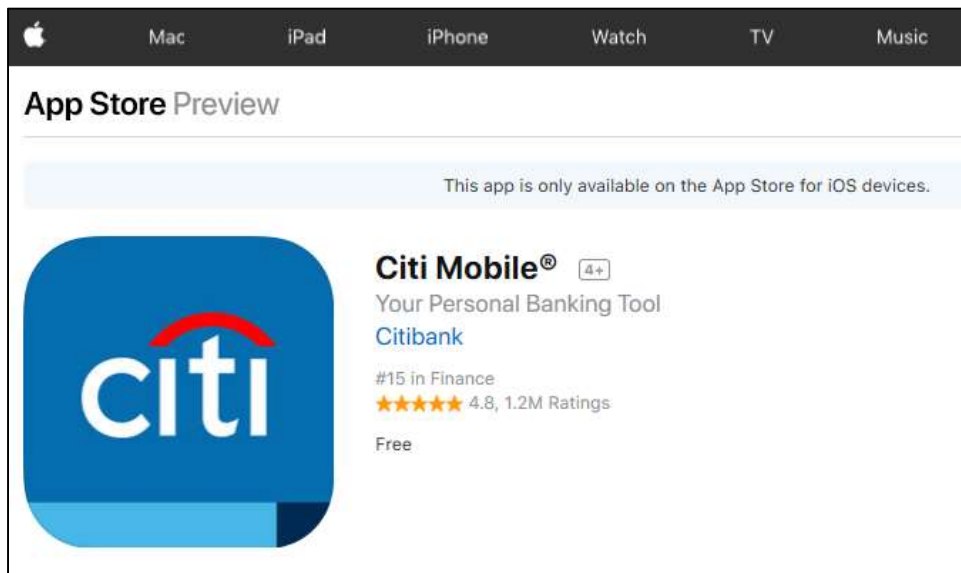
 ANDROID APP ON Google play

**Citi Digital Banking Services Get You Closer to Your Money**

Manage your money when you want, where you want and the way you want. It's how Citi digital services help you get the most out of your time and money.

- Citi Mobile Snapshot: Instant access to your bank and credit card account summary without signing on every time.
- Push notifications: Be notified about bank transactions and credit card purchases made in-store or online.
- Citi Quick Lock: Misplaced your credit card? You can lock it in the Citi Mobile® App or with Citi® Online.


<https://online.citi.com/US/JRS/portal/template.do?ID=MobileAppDownload&ProspectID=E8901F23285543A8A579EC24F4537885>



Mac iPad iPhone Watch TV Music

**App Store Preview**

This app is only available on the App Store for iOS devices.



**Citi Mobile®** 4+

Your Personal Banking Tool

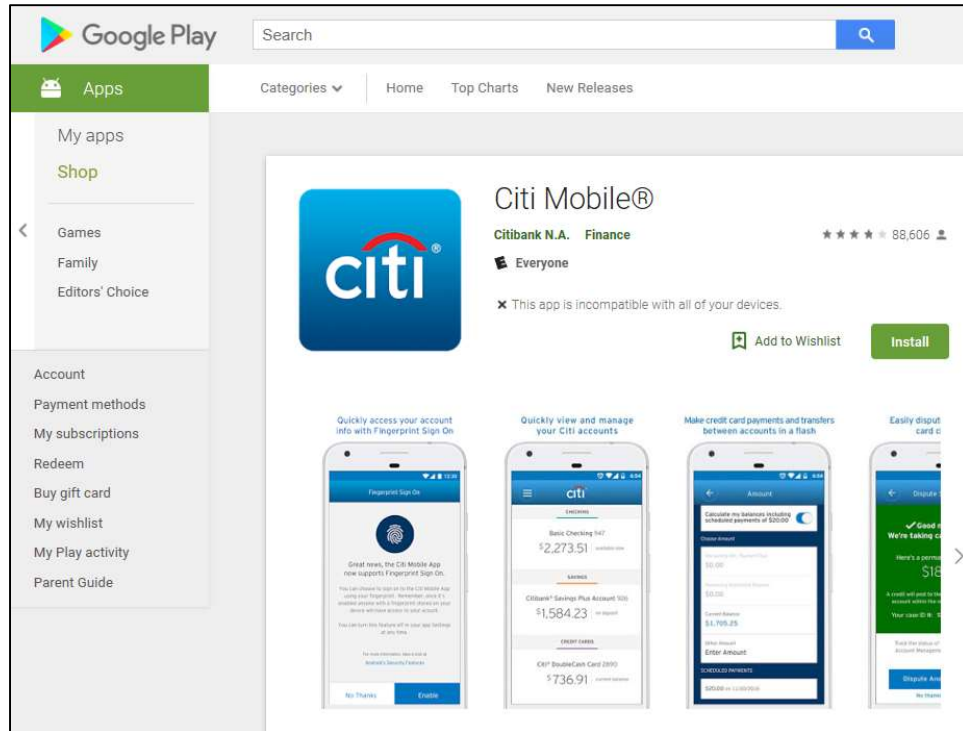
Citibank

#15 in Finance

★★★★★ 4.8, 1.2M Ratings

Free

<https://itunes.apple.com/us/app/citi-mobile/id301724680?mt=8>



[https://play.google.com/store/apps/details?id=com.citi.citimobile&hl=en\\_US](https://play.google.com/store/apps/details?id=com.citi.citimobile&hl=en_US)

11. Defendant controls the operation and use of the Citi Mobile App and encourages its customers to use the Citi Mobile App to deposit checks to the customer's accounts with Defendant. The Defendant's Citi Mobile App is the Accused Instrumentality through which Defendant and its customers infringe the '094 Patent.

12. At least by developing, distributing, operating, promoting, and encouraging the use of the Citi Mobile App, Defendant encourages its customers to use the Citi Mobile App to practice the claimed methods, which Defendant controls the use of and derives a direct benefit and profit from.

13. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including Claim 42, of the '094 Patent by developing, distributing, operating, promoting, and encouraging the use of the Citi Mobile App in the United States without authority.

Defendant has infringed and continues to infringe the '094 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271.

14. Defendant has been on notice of the '094 Patent at least as early as January 15, 2019 when it received a notice letter from Defendant, which included a claim chart comparing the '094 Patent claims to the Citi Mobile App.

15. Claim 42 recites:

42. A computer implemented method performed by an image submission tool on a user device, comprising:

causing the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images;

causing the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images;

causing the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party;

causing the image submission tool to enable a user to submit the one or more pre-processed images; and

causing the image submission tool to transmit the one or more pre-processed images.

16. The Citi Mobile App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

17. The photo of the front and back is manually taken by the user—as a result, the images produced may be blurry or otherwise undesirable, and the application enables the user to retake a given photo (front or back). A visual representation of the photos is displayed on the screen.

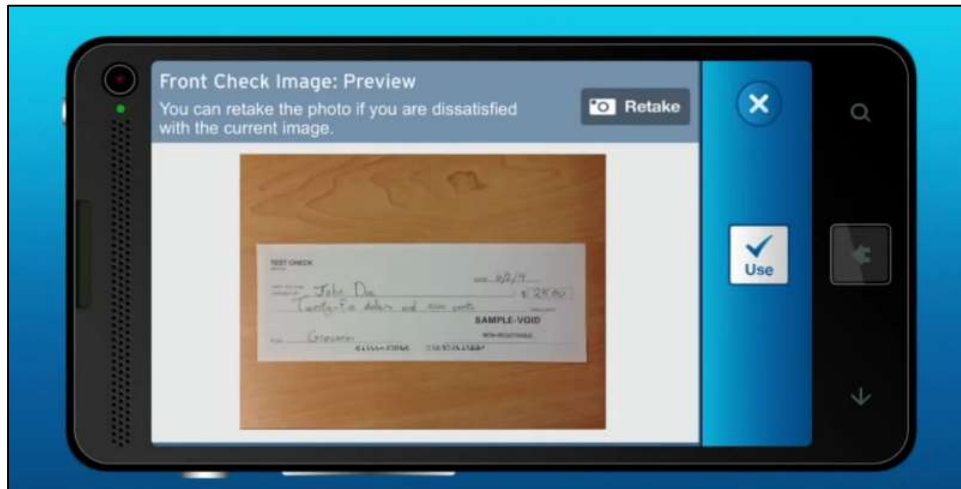
#### How Mobile Check Deposit works

After you've downloaded the Citi Mobile app for your iPhone®, iPod touch® or Android™ device:

- Sign on to your account in the Citi Mobile app and
  - If you have an iPhone, select "Move Money" from the menu, then "Deposit Check."
  - If you have an android device, select "Mobile Deposit" from the Quick Access bar.
- To enroll in the service, review and accept the terms & conditions.
- Select the account you want to deposit your check to and enter the check amount.
- Sign the back of your check.
- Free up enough memory for taking pictures by closing other mobile apps or restarting your device.
- Take pictures of both sides of your check, then submit the images for mobile deposit.

You'll receive confirmation emails when we receive your deposit, and when we accept your deposit for processing.

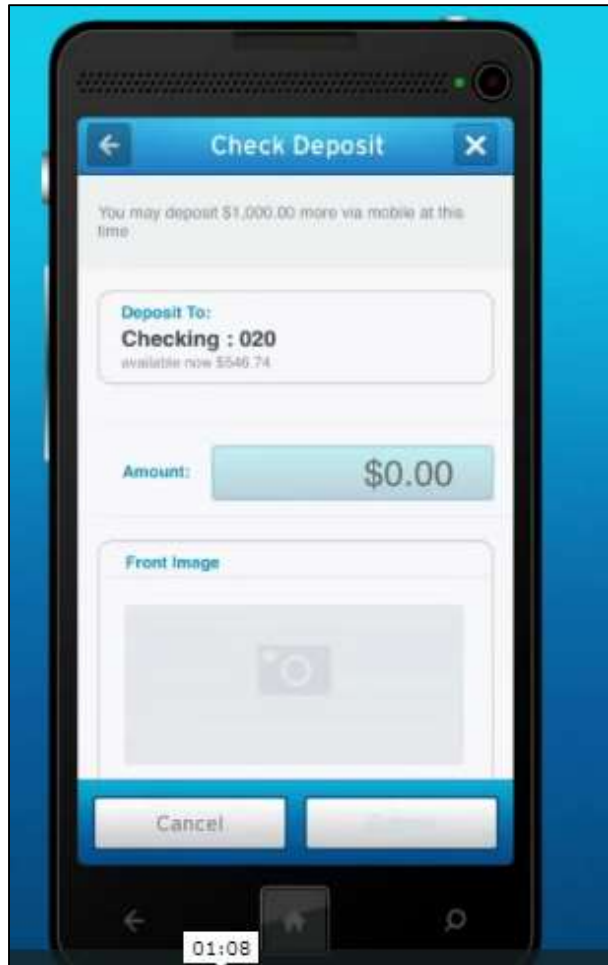
[https://online.citi.com/US/JRS/pands/detail.do?ID=MobileCheckDeposit&JFP\\_TOKEN=PYHN V8CL](https://online.citi.com/US/JRS/pands/detail.do?ID=MobileCheckDeposit&JFP_TOKEN=PYHN V8CL)



<https://vimeo.com/120721104>

18. After selecting an account to deposit the check to, the user enters the amount of the check.

- Select the account you want to deposit your check to and enter the check amount.




<https://vimeo.com/120721104>

19. Upon being accepted by the user (via the Citi Mobile App), the application pre-processes the front and back images to produce and front and back pre-processed images that is controlled by one or more preprocessing parameters received from a device (e.g., a server used to download the Citi Mobile App) separate from the user device (user's smart phone) in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

And Mitek has seen this in its own products as well as through its banking clients like CitiBank, which has been able to leverage products like Apple Pay to show how one payment innovation can be integrated into another. And that's what really can propel both innovations: by leveraging the best features of both into one seamless customer experience.



<https://www.pymnts.com/in-depth/2015/how-much-do-consumers-use-mobile-check-deposit/>



Build your Mobile Deposit® app on Mitek's strong foundation

- Image analytics meet Check 21 Industry Standards
- Advanced algorithms automatically correct images; dewarp, deskew, distortion, and poor lighting conditions.
- Specialized OCR software for highly accurate MICR validation
- API for easy integration into mobile banking apps as well as core systems
- State-of-the-art encryption
- Various account capable so the user can select from the accounts
- Mobile Deposit® history review for deposits and processed images
- International Support – available and supported in many countries around the globe.
- Available for iOS and Android
- Hosted and On-premise deployment

<https://www.miteksystems.com/mobile-deposit>

**Check 21 Compliant Checks**

There have been some concerns about what modifications need to be made to check designs to make them Check 21 compliant. Check 21 facilitates image exchange by allowing banks to truncate original checks after imaging, and creating a new negotiable instrument called a “substitute check” or image replacement document (IRD).

*Specifications for an Image Replacement Document-IRD* (ANS X9.100-40) describes the requirements of the substitute check.

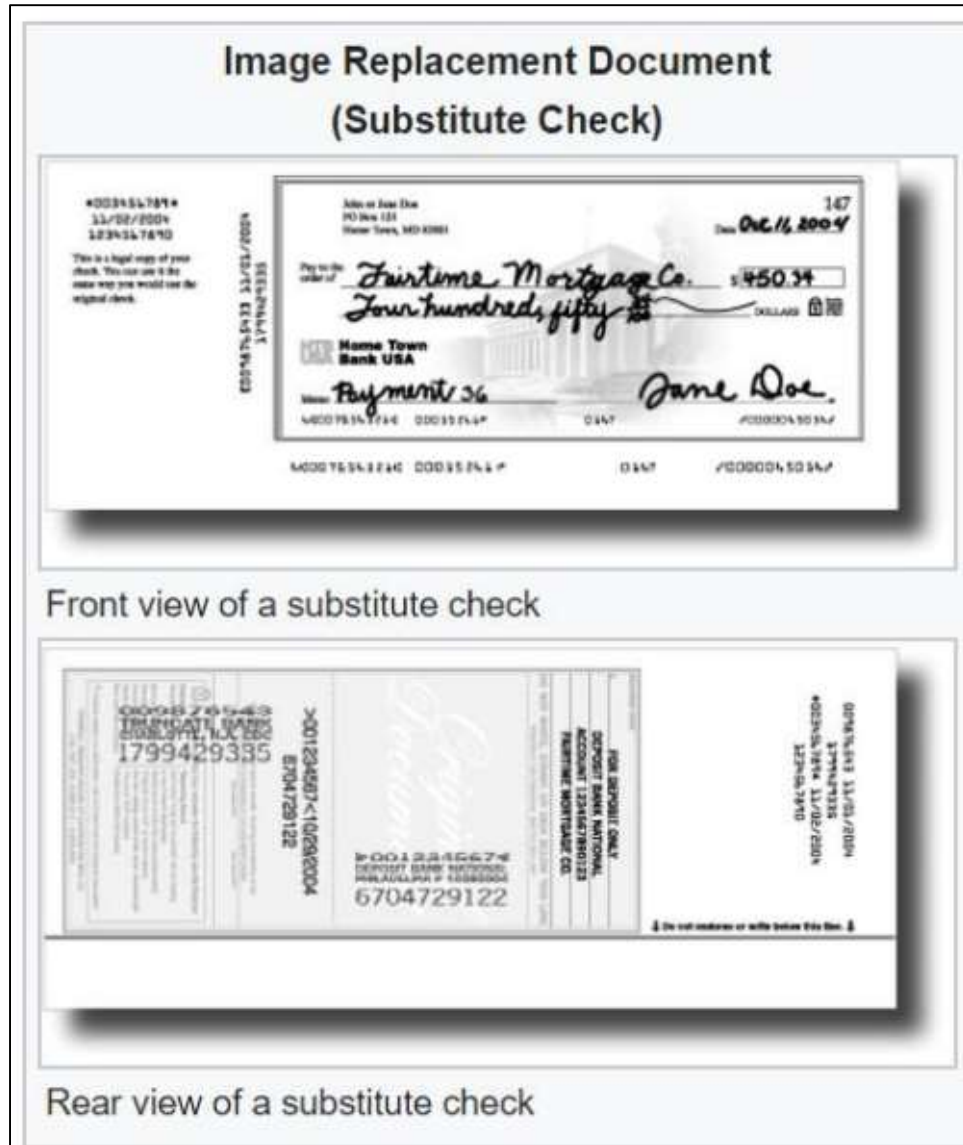
No new standards for check design have been defined as a result of Check 21. As long as our checks are American National Standards compliant, no design changes have to be made. Image quality is more important than ever with the possibility that a substitute check will be created from a check image. The *Bank Check Background and Convenience Amount Field Specification* (ANS X9.100-30 and ANS X9.100-110) and *Specifications for Check Endorsements* (ANS X9.100-111) are the standards most likely to affect the legibility of data in an image. These two standards specify background reflectance, clutter, and PCS of areas where important check data is found.

**Image File Size Issues**

As financial institutions move to imaging checks, bank operations are increasingly focused on image file storage size. Although there is no American National Standards limit on file storage size, financial institutions are choosing to set their own file size limits. Some of these institutions are choosing values so low that check security is threatened.

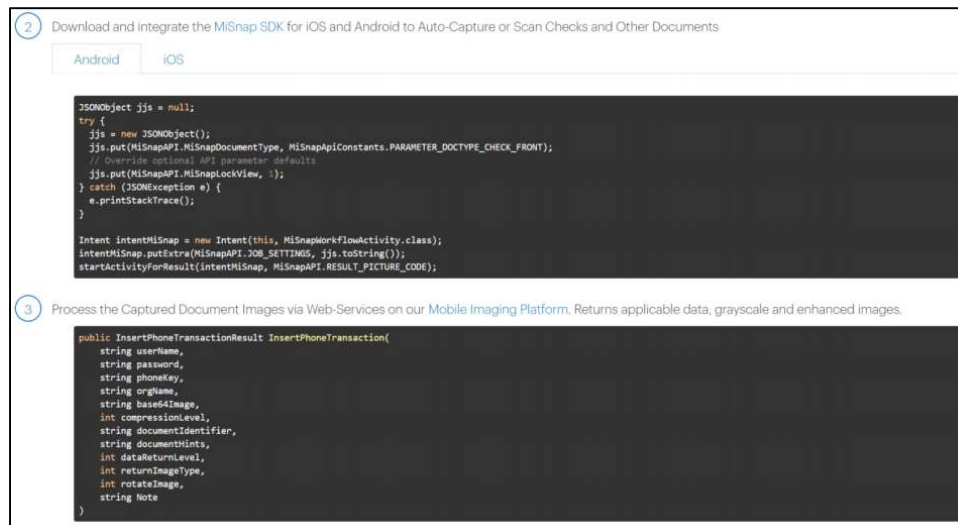
There are several reasons banks are pushing for smaller image file sizes. The primary reason is storage. As banks increase the number of items that they image, they will require more electronic storage capacity. In addition, banks may be providing their corporate customers with check images on removable storage, such as CDs. The banks want to minimize the number of CDs they need to send back to customers (optimally, one CD per customer). Finally, as banks begin to increase image exchange, image file size will play a major role in data transmission speeds.

[http://www.abagnale.com/pdf/checks\\_image\\_file\\_size.pdf](http://www.abagnale.com/pdf/checks_image_file_size.pdf)



[https://en.wikipedia.org/wiki/Substitute\\_checks\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Substitute_checks_in_the_United_States)

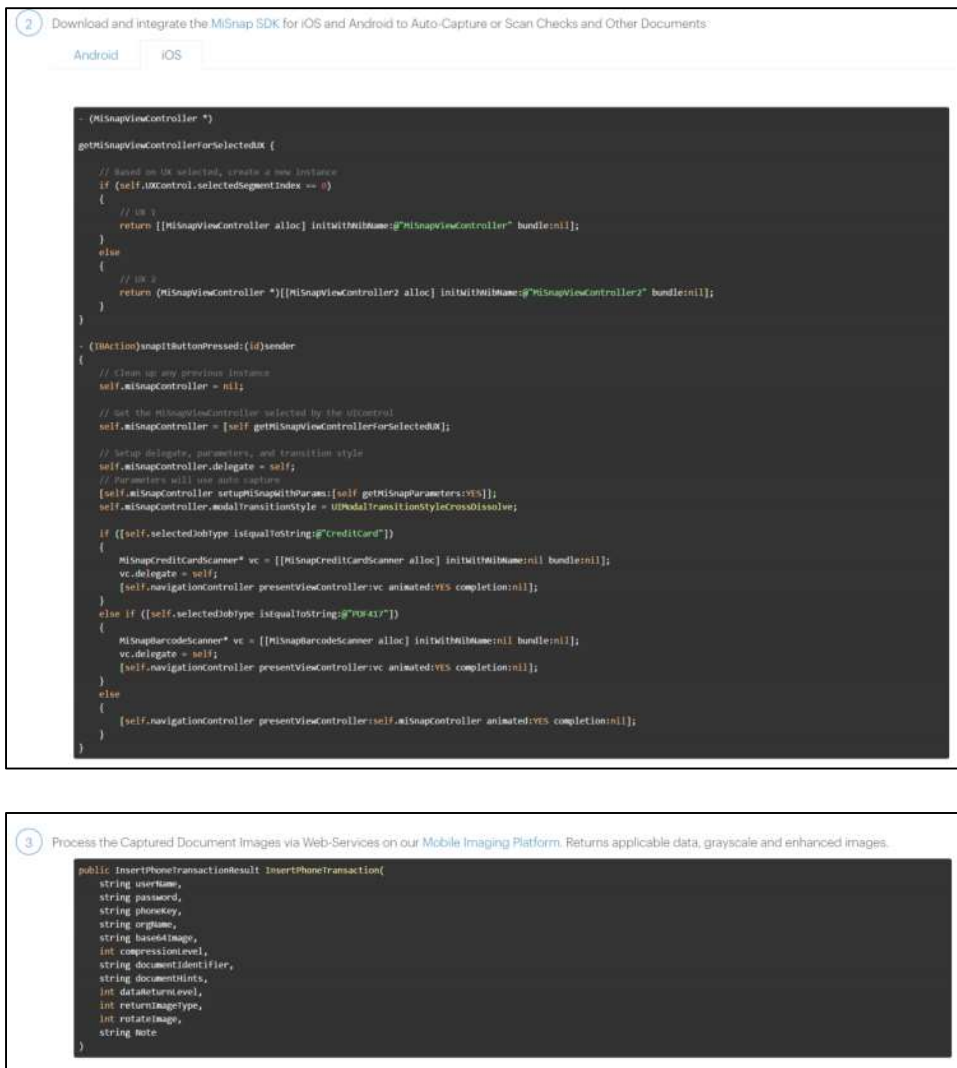
20. The parameters used for performing the pre-processing operations are part of the software library code (Mitek SDK) and API code provided by Mitek and used in the Citi Mobile App Mobile banking application.



<https://developers.miteksystems.com/>

21. The foregoing shows the Mitek MiSnap SDK interface code use to capture the image (top portion) and the Mitek Web Services interface (bottom portion) used for an Android mobile banking application using the Mitek SDK (software development kit) and code library. The image is sent as a base-64 format image to a Mitek Web Services server. The image capture interface code using Androids variant of Java. The Mitek Web Services uses a Java interface, and the “InsertPhoneTransaction” is a Java object.

22. The following shows the Mitek MiSnap SDK interface code used to capture the image (top portion) and then send the pre-processed image to the Mitek Web Services for further processing (bottom portion) using an iOS application. The image capture interface code using Apple’s Objective C language. “InsertPhoneTransaction” Java object is the same as used by the Android application.



23. The app enables the user to submit the pre-processed front and back images

- Take pictures of both sides of your check, then submit the images for mobile deposit.

You'll receive confirmation emails when we receive your deposit, and when we accept your deposit for processing.

24. Once the user hits submit, the pre-processed images are transmitted to a Mitek Web Services server.

- Take pictures of both sides of your check, then submit the images for mobile deposit.

You'll receive confirmation emails when we receive your deposit, and when we accept your deposit for processing.

25. The pre-processed images are first sent to a Mitek Web server to be processed using Mitek image processing Web Services, which (substantially immediately) return images of the front and back of the check that are compliant with the Check 21 substitute check requirements.

26. The Check 21 compliant images (substitute check) are then sent to a Citibank server. The processing performed by the Mitek Web Services is transparent to the user experience and is performed on the order of a second or less.

27. Lupercal has been damaged by Defendant's infringing activities.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendant:

1. declaring that the Defendant has infringed the '094 Patent;
2. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '094 Patent;
3. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and
4. granting Plaintiff such further relief as the Court finds appropriate.

#### **JURY DEMAND**

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: March 11, 2019

Respectfully submitted,

/s/ Raymond W. Mort, III

Raymond W. Mort, III  
Texas State Bar No. 00791308  
raymort@austinlaw.com

**THE MORT LAW FIRM, PLLC**  
100 Congress Ave, Suite 2200  
Austin, Texas 78701  
Tel/Fax: (512) 865-7950

**ATTORNEYS FOR PLAINTIFF  
LUPERCAL LLC**